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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,502	02/24/2004	Adnan Shennib	022176-000210US / IHS/002	4013
7590	10/19/2005		EXAMINER HARVEY, DIONNE	
Sharon R. Kantor c/o: InSound Medical, Inc. 37500 Central Court Newark, CA 94560			ART UNIT 2646	PAPER NUMBER

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,502

Applicant(s)

SHENNIB ET AL.

Examiner

Dionne N. Harvey

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2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-130 is/are pending in the application.
- 4a) Of the above claim(s) 1-103 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 104-127 is/are allowed.
- 6) ☒ Claim(s) 128-130 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/24/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Figure 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 128-130** are rejected under 35 U.S.C. 102(e) as being anticipated by **Brimhall U.S. 6,359,993**.

Regarding claim 128, in **figure 7**, **Brimhall** teaches a tubular insert **238** for an ear canal of a wearer, comprising: a sound conduction tube (*see column 10, lines 28-29 wherein Brimhall teaches a elongated pipe-shape*) constructed and adapted for removable connection to a sound receiver module **214** of a hearing device, for comfortable insertion into and removal from the ear canal; sounds output from receiver module **214**, inherently passes through an opening in said tube **238**, said tube thereby reading on “to deliver sound received by the module to the tympanic membrane”;

Brimhall teaches that tube **238** includes a skirt like portion **256** which is filled with a compliant material, thereby reading on “and at least one appendage on the sound conduction tube to establish a substantially acoustically sealed space in which the sound is to be delivered to the tympanic membrane”;

And another appendage **280** is provided on the sound conduction tube or on the sound receiver module for cooperating with said at least one appendage to direct occlusion sounds away from the tympanic membrane **via 290** when said tubular insert is connected to said sound receiver module and worn in the ear canal.

Regarding claim 129, **figure 7** of Brimhall teaches sound conduction tube **212** for removable connection to a receiver module **214** comprising: a first sound conduction channel **258**, *into which the receiver is located and the out of which acoustic sound from said receiver is transmitted*, coupled to the sound conduction tube for enabling sound delivery to the tympanic membrane; and a second sound conduction channel **280** simultaneously directing occlusion sounds away from the tympanic membrane **via 290**

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when the sound conduction tube is connected to said receiver section and inserted in the ear canal.

Regarding claim 130, **figure 7** of Brimhall teaches a tube portion **212** for insertion into the ear canal; means **258**, operatively associated with the tube portion for delivering received sound to an acoustically sealed space, through the insertion of receiver module **214**; and means **280** operatively associated with the tube portion for directing occlusion sounds away from the eardrum.

Allowable Subject Matter

3. Claims 104-127 allowed.

Terminal Disclaimer

4. The terminal disclaimer filed on 6/21/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patent no. 6,724,902 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

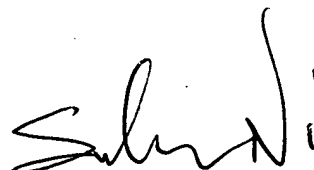
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


D. Harvey


SUHAN NI
PRIMARY EXAMINER